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LAWS ADDRESSING STUDENT CYBERBULLYING OF TEACHERS

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You asked for a summary of laws in other states that prohibit student cyberbullying of teachers.

SUMMARY

Connecticut's law against cyberbullying offers protection only to students ([CGS § 10-222d](#)), but several other states, namely Florida, Kansas, Nevada, and North Carolina, have laws that provide protection from cyberbullying specifically to school staff members. This report summarizes how these laws classify online bullying, which class of victims they protect, which behaviors they specifically prohibit, and how perpetrators are sanctioned. Of the four states included here, North Carolina and Nevada provide criminal penalties for violations, whereas Kansas and Florida authorize local school districts to administer their own disciplinary penalties. (Arkansas, which also has a cyberbullying law, is not included because the law is not school-specific; it pertains to cyberbullying acts perpetrated by any person and harming any person (Ark. Code Ann. § 5-71-217).)

BACKGROUND

Forty-seven states have enacted laws that explicitly address either the issue of cyberbullying or electronic harassment, including Connecticut. While a majority of these states focus on the student-to-student relationship, only the four states examined in this report broaden the focus to encompass the student-to-teacher relationship.

States have enacted cyberbullying laws in the absence of U.S. Supreme Court guidance about whether students have a First Amendment right to electronically post school-related comments while off school grounds, which is where many cyberbullying issues arise. Accordingly, some states have inserted language in their cyberbullying laws from the seminal Supreme Court student speech case *Tinker v. Des Moines Indep. Cmty. Sch. Dist.* (1969) in order to remain aligned with the current rule, which permits school discipline for student speech that is reasonably foreseeable to significantly disrupt school activities.

STATE LAWS PROTECTING TEACHERS AND OTHER STAFF FROM CYBERBULLYING

North Carolina

A North Carolina law, commonly known as the "School Violence Prevention Act of 2012," provides teachers broad protection from cyberbullying. It specifically addresses cyberbullying of a school employee at the hand of a student, defining the practice as the use of a computer or computer network with the intent to "intimidate" or "torment" a school employee. This law enumerates a long list of prohibited online speech directed at school employees, which include: creation of a false online profile for an employee; posts of private or sexual information about an employee; posts of real or altered images of an employee; or enrollment of an employee in pornographic or junk email groups.

The law treats cyberbullying of school employees as a criminal offense. A student who is guilty of this offense has committed a Class 2 misdemeanor and is eligible for a maximum sentence of 60 days in jail, a maximum fine of \$1,000, or both (NC Gen. Stat. § 14-458.2).

Nevada

Nevada law classifies cyberbullying as the use of electronic communication to threaten to cause bodily harm or death with the intent to "intimidate, harass, frighten, alarm, or distress," or "to interfere with the operation of a public school, including . . . a charter school." Teachers, other staff, or students may be held accountable for cyberbullying, and the protected class of victims includes not only public school district and charter school employees, but also their pupils.

The criminal penalties attached to cyberbullying in Nevada are among the nation's strongest. The act is initially classified as a misdemeanor, carrying a maximum sentence of six months in jail, a maximum fine of

\$1,000, or both. In lieu of jail time or a fine, a period of community service can be substituted. However, the act is elevated to a gross misdemeanor if the cyberbully is successful in intimidating, harassing, frightening, alarming, or distressing the employee. This carries a harsher maximum sentence of one year in jail, a maximum fine of \$2,000, or both (Nev. Rev. Stat. § 392.915).

Kansas

Kansas law defines cyberbullying as the use of an electronic communication device to create an "intimidating, threatening, or abusive educational environment." Electronic devices include email, instant messaging, text messages, blogs, mobile phones, and websites. This law protects staff members and students from physical and mental harm to their person or damage to their property, or from mere reasonable fear of such harm.

The Kansas law authorizes school districts to administer the penalties for cyberbullying. The board of education of each public school district must adopt its own policy to prohibit cyberbullying (Kan. Stat. Ann. § 72-8256).

Florida

A Florida law, commonly known as the "Jeffrey Johnston Stand Up for All Students Act," uses the term "harassment" in association with computers, computer systems, and networks to classify electronic bullying. Harassment includes any threatening, insulting, or dehumanizing use of computer data or software that places the victim in fear of harm to his or her own person or property. To be punishable, the act of harassment must substantially interfere with a student's educational performance, opportunities, or benefits, or substantially disrupt the orderly operation of the school. The law protects both school employees and students.

The law prohibits harassment "[t]hrough the use of data or computer software that is accessed through a computer, computer system, or computer network of a public K-12 educational institution." Further, it simultaneously states that the "physical location . . . of a computer-related incident" is no defense to disciplinary action.

Under Florida law, school districts administer cyberbullying penalties. Each district must develop a policy containing consequences for a student or employee who commits an act of harassment (Fla. Stat. Ann. § 1006.147).

FIRST AMENDMENT PROTECTION FOR STUDENT SPEECH

The U.S. Supreme Court recently declined to review several cases where a student challenged administrative punishment for composing off-campus, online speech directed toward a staff member of a public school district. Therefore, the federal court rule for school discipline currently stands in the 1969 *Tinker* case. Under *Tinker*, a school must recognize students' First Amendment speech rights on campus, but school administrators may punish students when their speech causes a significant disruption to school activities or violates others' rights.

Some states with cyberbullying laws have chosen to incorporate language from the *Tinker* rule, regardless of whether their laws impose school-issued or criminal penalties on the perpetrator. For example, Florida, which requires school districts to adopt their own electronic harassment policies, defines computer harassment as an act that "has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or . . . has the effect of substantially disrupting the orderly operation of a school." Also, Nevada, which criminalizes cyberbullying, ascribes to cyberbullying "the intent to . . . interfere with the operation of a public school, including, without limitation, a charter school."

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